



STATE OF ARKANSAS
**Department of Finance
and Administration**

OFFICE OF THE DIRECTOR
1509 West Seventh Street, Suite 401
Post Office Box 3278
Little Rock, Arkansas 72203-3278
Phone: (501) 682-2242
Fax: (501) 682-1029
<http://www.state.ar.us/dfa>

June 8, 2005

Stephen B. Kranz
Council on State Taxation
122 C Street NW, Suite 330
Washington, DC 20001-2109

Senator Angela Z. Monson
2300 N. Lincoln Blvd., Room 428
Oklahoma City, OK 73105

Commissioner R. Bruce Johnson
Utah Tax Commission
210 N. 1950 West
Salt Lake City, UT 84134

Dear Mr. Kranz, Senator Monson and Commissioner Johnson:

The State of Arkansas petitioned for membership in the Streamlined Sales and Use Tax Agreement on April 27, 2005. On May 25, 2005, Arkansas received a brief explanation of "General Concerns" and a list of thirty comments entitled "Specific Concerns" from Stephen Kranz, Tax Counsel of the Council on State Taxation on behalf of the group of businesses that have organized as the informal Business Advisory Council. This letter is in response to Mr. Kranz's comments.

Arkansas' response is as follows:

General Concerns:

The expressed general concerns included: (1) a non-state specific concern regarding the proper authorization for promulgation of regulations; (2) the requirement that the state's registration system be operational by October 1, 2005; and (3) a statement that Arkansas has not developed its taxability matrix, and that among states that have completed their matrix, there is a lack of consistency in definitions of terms and a question regarding a "N/A" designation.

Response:

Act 2163 of 2005, effective July 1, 2005, authorizes Arkansas to participate in an online sales and use tax registration system in cooperation with

the states that are members of the Streamlined Sales and Use Tax Agreement. Arkansas is currently participating with other implementing states in the development of a combined registration system. Arkansas will be ready to participate by October 1, 2005, provided the registration system is operational.

Arkansas completed its taxability matrix and posted it on the Department's website. Arkansas responded to each definition in completing its matrix. Arkansas' responses that indicated "N/A" were made in response to "Clothing and Related Products, Candy and Food Products, Prepared Food," and some drug definitions. The explanation (that sales of these items are taxed as sales of tangible personal property) is made in the Statute/Rule column, along with the reference to the applicable code section.

Response to Specific Concerns:

Interestingly, the list of specific concerns is an analysis that was prepared by the Department of Finance and Administration prior to the 2005 legislative session to assist in determining what legislative changes would be required in order to bring Arkansas into compliance with the terms of the Streamlined Sales Tax Agreement. Accordingly, the response to the expressed specific concerns have been grouped into three categories, depending upon the outcome of the Department's analysis of each specific issue.

The first category consists of concerns that were addressed by an act enacted by the Arkansas 85th General Assembly that will be effective on July 1, 2005. A brief explanation of each of these specific concerns and the act addressing these concerns is identified following this listing of the three categories.

The second category consists of concerns for which it was determined that no statutory or regulatory change was required in order for Arkansas to be in compliance with the terms of the Streamlined Sales Tax Agreement. These concerns are listed along with a brief explanation of the analysis regarding why no changes were required.

The third category consists of concerns that will require either a statutory amendment or can be addressed by rulemaking under the Department's delegated authority.

Category No. 1 – Addressed by Act 2163 of 2005. The following are the concerns as numbered in Mr. Kranz's list. Each of these concerns was addressed by Act 2163 of 2005, which is effective July 1, 2005.

- (4) Authority for Arkansas to participate in an address-based local rate and

boundary system, Ark. Code Ann. § 26-21-105.

(5) Authority to provide relief to sellers and CSPs from liability for collecting incorrect amounts of tax, Ark. Code Ann. § 26-21-106.

(9) Provide relief for the seller if the seller follows section 317 of the Agreement and hold the purchaser liable, Ark. Code Ann. § 26-21-107.

(10) Allow reporting of "tax due," Ark. Code Ann. §26-21-108(b).

(11) Provide an alternative method for "same day" payment if electronic fund transfer fails, Ark. Code Ann. § 26-21-108(a).

(13) and (14) Customer refund procedure for over-collected taxes, Ark. Code Ann. § 26-21-109.

(16) Definitions for Model 1 seller, Model 2 seller and Model 3 seller, Ark. Code 26-21-103(6)-(8). Definition of "food and food ingredients" not required because Arkansas does not exempt either.

(17) Definitions for "Purchaser" and "Certified Service Provider," Ark. Code Ann. § 26-21-103.

(24) Effective date of rate changes for services, Ark. Code Ann. § 26-21-112.

(25) Required amnesty provisions, Ark. Code Ann. § 26-21-110.

(26) Authority to certify service providers and computer systems for use by SSTP participants, Ark. Code Ann. § 26-21-111.

(27) Authority for monetary allowances to Certified Service Providers, Ark. Code Ann. § 26-21-111.

Category No. 2 – No statutory or regulatory change required for compliance with the Agreement. The explanation follows each numbered category.

(1) "Additional state tax" voted on by the people of Texarkana, Arkansas to be paid in-lieu-of state income tax. This will be administered as a local tax and will not affect Streamlined sellers. Also, see Act 2163 of 2005, Ark. Code Ann. § 26-21-108(b).

(2) Provide a cap for the 1% Model Cities local tax collected in Texarkana, Arkansas until all local caps are removed. This concern was based upon a timing issue (the fact that the Streamlined provisions would become effective

before the effective date of cap removal). Now both the Streamlined provisions and cap removal become effective 7-1-07, and there is no longer any need for this provision.

(22) Codification error in amendment to Ark. Code Ann. § 26-52-103 by Act 1273 of 2003 – does not present a problem for compliance with the Agreement.

(28) Two percent discount provision – no statutory or other modification required for compliance with the Agreement.

(29) Local jurisdiction map requirement – Not a requirement of SSTP.

(30) Reporting method for aviation tax – No change required for SSTP purposes.

Category No. 3 – This category consists of issues for which legislation was not enacted during the 2005 legislative session. The state will seek legislation during the 2007 legislative session to address these issues with an effective date prior to July 1, 2007, the current effective date for Streamlined Sales Tax in Arkansas.

(3) Delete the requirement in Ark. Code Ann. § 26-52-121 that vendors provide certain information including the names and addresses of all agents in the state and the location of distribution or sales facilities, offices, or other places of business.

(6) Amend or repeal the reduced rates for construction contracts currently contained in Ark. Code Ann. § 26-52-427.

(7) Amend Ark. Code Ann. § 26-52-507 to repeal the sales tax sourcing rules for florists.

(8) Repeal Ark. Code Ann. § 26-74-608(b) so that purchases made by direct pay permit holders are sourced in accordance with the destination based sourcing rules of the Streamlined Agreement.

(12) Amend Ark. Code Ann. § 26-52-309 to bring the bad debt provisions into compliance with the bad debt provisions of the Streamlined Agreement by allowing a refund request when the bad debt deduction exceeds the sales tax due.

(15) Define the following terms: “computer”, “computer software”, “delivered electronically”, and “load and leave.”

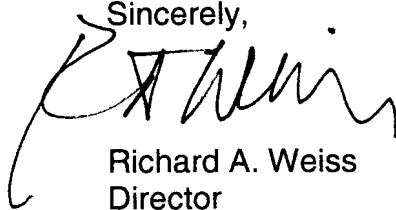
(18) Adopt the applicable Streamlined definitions for purposes of the medical equipment and medical supplies exemption.

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- (19) Add a definition for "delivery charges."
- (20) Adopt the Streamlined definition of "tangible personal property."
- (21) Adopt definitions of "drug" and "prescription."
- (23) Adopt a provision to relieve sellers and Certified Service Providers from liability for incorrectly collecting tax based on reliance on erroneous data contained in the state's taxability matrix.

If any additional information is needed regarding Arkansas' compliance with the Streamlined Agreement, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Weiss", with a large, stylized initial "R" and a long, sweeping underline.

Richard A. Weiss
Director
Department of Finance and
Administration

cc: Scott Peterson, Interim Director, Conforming States
Commissioner Loren L. Chumley, Conforming States Committee Co-Chair
Senator Dwight Cook, Conforming States Committee Co-Chair
Members, Streamlined States Tax Implementing States